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SANDISK CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION *E-FILED - 7/27/06*

SANDISK CORPORATION, a Delaware
corporation,

Plaintiff,

v.

AUDIO MPEG, INC., a Virginia
corporation; U.S. PHILIPS
CORPORATION, a Delaware corporation;
FRANCE TÉLÉCOM, a French corporation;
TÉLÉDIFFUSION DE FRANCE S.A., a
French corporation; INSTITUT FÜR
RUNDFUNKTECHNIK GMBH, a German
corporation,

Defendants.

CASE NO. C06-02655 RMW

STIPULATION AND ORDER
CONTINUING CASE MANAGEMENT
CONFERENCE AND ANSWER DATES

Case Management Conference

Date: July 28, 2006
Time: 10:30 a.m.

STIPULATION AND ORDER
CONTINUING CASE MANAGEMENT
CONFERENCE AND ANSWER DATES

CASE NO. C06-02655 RMW

1 Pursuant to Local Rules 6-2 and 7-12, Plaintiff SanDisk Corporation (“SanDisk”)
2 and Defendants Audio MPEG Inc. (“Audio MPEG”), U.S. Philips Corp. (“Philips”), France
3 Télécom, TDF (formerly known as Télédiffusion de France), and Institut Für
4 Rundfunktechnik GMBH (“IRT”) (collectively “Defendants”) request that the Court
5 continue the case management conference (now scheduled in this case for July 28, 2006)
6 pending the outcome of SanDisk’s motion to dismiss and motion to transfer, which are
7 currently pending in a related case in the Eastern District of Virginia.

8 The following facts are relevant to this request:

9 1. Audio MPEG filed a complaint against SanDisk in the Eastern District of
10 Virginia on April 13, 2006 (“the Virginia Action”), alleging infringement of U.S. Patent
11 Nos. 5,214,678; 5,323,396; 5,777,992; and 5,539,829.

12 2. On April 19, 2006, SanDisk filed its complaint in the instant case, seeking
13 declaratory relief with respect to the same patents that are at issue in the Eastern District of
14 Virginia. In its complaint, SanDisk stated: “In the event the Eastern District of Virginia
15 holds that it does have jurisdiction and that it is the most convenience [sic] forum, and
16 therefore elects to retain jurisdiction, over the action filed on April 13, or some portion of
17 it, SanDisk will take appropriate steps to insure that this Court and the Eastern District of
18 Virginia are not confronted with duplicative litigation.”

19 3. SanDisk filed a motion to dismiss for lack of standing in the Virginia Action
20 on April 20, 2006, on the basis that the patent owners (Philips, France Telecom, TDF, and
21 IRT) had not been joined as plaintiffs.

22 4. Audio MPEG, Philips, France Telecom, TDF, and IRT filed an Amended
23 Complaint in the Virginia Action on April 28, 2006.

24 5. On May 8, 2006, SanDisk filed in the Virginia Action a motion to transfer
25 the case to this Court.

26 6. The court for the Eastern District of Virginia heard oral argument on
27 SanDisk’s motion to dismiss and motion to transfer on May 31, 2006, but has not yet ruled
28 on either motion.

1 7. The Court in this case has set the initial Case Management Conference for
2 July 28, 2006, at 10:30 a.m. The Court ordered the parties to file a Joint Case Management
3 Statement by July 21, 2006.

4 In view of the foregoing, THE PARTIES HEREBY STIPULATE that:

- 5 1. None of the Defendants shall be required to file an answer or responsive
6 pleading to SanDisk's complaint until at least ten (10) days after the court in
7 the Virginia Action rules on SanDisk's motion to dismiss or SanDisk's
8 motion to transfer;
- 9 2. In addition, if the court in the Virginia Action decides one but not both of
10 the pending motions, the parties shall promptly meet and confer to determine
11 what, if any, further stipulation may be appropriate;
- 12 3. The initial Case Management Conference currently scheduled for July 28,
13 2006 and the Joint Case Management Statement due on July 21, 2006,
14 should be continued until the parties jointly further advise the Court of the
15 status of the Virginia Action, in a further submission to be filed no later than
16 September 11, 2006;
- 17 4. Notwithstanding the foregoing, the parties shall notify the Court of the
18 resolution of SanDisk's motion to dismiss and motion to transfer in the
19 Virginia Action no later than five (5) days after the resolution of one or both
20 of those motions;
- 21 5. In the event that the Eastern District of Virginia denies SanDisk's motion to
22 transfer and denies SanDisk's motion to dismiss, SanDisk will promptly
23 "take appropriate steps to insure that this Court and the Eastern District of
24 Virginia are not confronted with duplicative litigation."
- 25 6. By filing this stipulation, Defendants do not waive any arguments, including
26 that they are not subject to personal jurisdiction in this case or that they have
27 not been properly served in this case with the summons and complaint.
28

Before the filing of this stipulation, there have not been any changes to Court ordered deadlines or dates in this case. The effect on the schedule for this case depends on the timing and outcome of the resolution of SanDisk's motions in the Virginia Action.

IT IS SO STIPULATED.

Dated: July 13, 2006

By: /s/ Matthew F. Weil

By: /s/ Ethan B. Andelman

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 7/27/06

/s/ Ronald M. Whyte

RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE

ORC 392449-2.061590.0020 The parties are ordered to file a
joint letter brief as to the
Virginia Action by 9/15/06.